

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:16-cv-00135-FDW

COREY DELON GREENE,

Plaintiff,

v.

JOSEPH ABERNATHY, et al.,

Defendants.

**ORDER**


**THIS MATTER** is before the Court on consideration of Plaintiff's complaint which he filed pro se pursuant to 42 U.S.C. § 1983, and his motion to dismiss his complaint. Plaintiff, who is a prisoner of the State of North Carolina, alleges that the defendants have violated his civil rights. In his motion to dismiss, Plaintiff contends that he now wishes to pursue state habeas relief before he proceeds with any § 1983 claims. The Court notes that because no answer or other pleading has been filed by any of the defendants that Plaintiff may dismiss his complaint as a matter of right. See FED. R. CIV. P. 42(a)(1)(i).

**IT IS, THEREFORE, ORDERED** that Plaintiff's motion to dismiss will be construed as a notice of voluntary dismissal and his complaint is **DISMISSED without prejudice**. (Doc. No. 6).

**IT IS FURTHER ORDERED** that Plaintiff's motion to appoint counsel is **DISMISSED as moot**. (Doc. No. 3).

The Clerk is respectfully directed to close this civil case.

Signed: June 20, 2016

  
Frank D. Whitney  
Chief United States District Judge

